

This whole “Net Neutrality” circus really overlooks the main regulatory need, and perhaps was initiated partly as a distraction. Yes, there are good arguments on issues around the margins of Internet policy, such as that “edge” internet content providers like Netflix, Hulu, etc. should not encounter discriminatory pricing or bandwidth or speed throttling, which may adversely affect the portion of Internet users who are their customers. But what is the most pervasive, universal need of the public? Fast, reliable, and well-served access to the ‘Net as a whole. Obviously, this affects all Web interaction, email, connection with proprietary systems for remote access to corporate and institutional networks — everything. Both the FCC and Congress are totally ignoring that.

The benefit of the FCC classifying ISP’s under Title II is that it allows regulation of their overall service to customers. Legal maneuvering aside, there is plenty of basis to treat ISP’s like the telecoms. The ‘Net is just as much a communication infrastructure as an information access tool. Moreover — and this is a major fact overlooked — some ISP’s rely upon infrastructure created by others and with public attributes. Just look at Comcast’s SEC filings, for example. They disclose that their system utilizes rights-of-way granted by owners of telephone poles and the like. Access to these utility systems is essential to ISP’s using them, and creates competitive barriers of the same type as the cost of acquiring wholly new easements on property of others needed to lay coaxial cable, fiber, or the like.

Then there is the related nonsense that “competition” exists in markets served by multiple ISPs, even though there is only one truly high-speed provider. Except in fiber markets, right now coaxial cable is the only medium that permits access speeds even approaching those in other countries that have surpassed the U.S. in public access services. DSL lines, satellites, and the like simply do not offer service anywhere near the 50 Mbps download or higher speeds available through coax. So a market served by, say, Comcast (cable), AT&T (DSL), and Direct TV (satellite) cannot honestly be characterized as competitive. What we have in this country right now is an environment where providers who historically got the infrastructure they need are allowed and even encouraged to have the attitude, “we’ve got ours, too bad for you.”

And then there is the horrific service that has resulted from the monopolies existing in many markets, and the lack of regulation. Sure, anybody who

favors free markets abhors government regulation. But it is too late in the history of this country to argue that regulation is unhelpful or unnecessary during periods where the public is victimized by monopolies. And in the ISP industry, legal remedies for monopolies are often inadequate — for example, there is no scenario for a useful “breakup” of Comcast in the same way that Microsoft was broken into operating system and application segments (before the Justice Department chickened out and walked away from an outstanding remedy ruling by a bright and brave trial court judge). It is going to take a long time, and a lot of capital and risk acceptance, for the emergence of true competition across the markets in this country as a whole.

Yet the FCC, having granted itself the remedial opportunities available by classifying the ISP’s under Title II, has done nothing significant about any of these problems. And now, the politicians are duping us with a fire drill campaign predicated on the totally false notion that regulation will ruin everything. Huh? For many customers, what is there to ruin?

So instead of distracting us with legislative and regulatory combat over “Net Neutrality,” the people we elect to represent us in Congress, the FCC Commissioners they appoint, and — if those are unwilling to act — other agencies like the Federal Trade Commission and the Justice Department’s Antitrust Division, should open their eyes to a more fundamental, pervasive view of the public need, and stop the general victimization of ISP customers by greedy and arrogant ISP’s, who obviously prefer to spend money on the legal bribing of lawmakers through political contributions, rather than on the entrepreneurship and customer service that previously built this country into an economic powerhouse.